REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 36-54 are currently pending. Claims 36-46 and 50-53 have been amended by the present amendment. The changes to the claims are supported by the originally filed specification and do not add new matter.

In the outstanding Office Action, the specification was objected regarding the symbols "$<<$" and "$>>$"; the drawings were objected to under 37 C.F.R. § 1.83(a); Claims 36-54 were rejected under 35 U.S.C. § 112, first paragraph; Claims 36-51 were rejected under 35 U.S.C. § 112, second paragraph; and Claims 36-54 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,592,546 to Fascenda et al. (hereinafter "the '546 patent").

Applicants wish to thank the Examiner for the interview granted Applicants' representative on October 8, 2003, at which time proposed amendments to Claim 36 were discussed. However, no agreement was reached, pending the Examiner's further consideration of the claims upon formal submission of a response to the outstanding Office Action.

Regarding the inclusion of the "$<>>$" symbols in the specification, Applicants submit that the inclusion of those symbols is not improper. Further, Applicants note that the Office Action has failed to indicate a basis for this objection. Accordingly, Applicants respectfully traverse the objection to the specification.

Applicants respectfully submit that the objection to the drawings under 37 C.F.R. § 1.83(a) is rendered moot by the present amendment to the claims. All variables and equations have been deleted from the claims.

Applicants respectfully submit that the rejections of the claims under 35 U.S.C. § 112, first paragraph, are rendered moot by the present amendment to the claims. As noted above, the claims have been amended to delete all equations and variables. Moreover, Applicants respectfully submit that the amended claims are enabled and adequately supported by the specification. In particular, Applicants refer the Examiner to pages 16-18 of the specification, which provide support for the amended claims. A more detailed discussion of claim support is provided below.

Applicants respectfully submit that the rejection of Claims 36-51 under 35 U.S.C. § 112, second paragraph is rendered moot by the present amendment to the claims. In particular, Applicants again note that all equations and variables have been deleted from the claims. Moreover, the claims have been amended to clarify and define each term recited in the claims.

Amended Claim 36 is directed to a method of conducting a lottery, comprising: (1) distributing a portable memory device to a user, the portable memory device comprising an input-output unit, a counter configured to output count data, and a memory configured to store the count data, wherein the portable memory device is configured to interface with a data collection computer such that the count data stored in the portable memory device is read by the data collection computer to determine a time a user of the portable memory device entered lottery information into the portable memory device; (2) reading, from the portable memory device by the data collection computer at a first time, a first count output by the counter at the first time; (3) determining a frequency and a period of the counter; (4) storing, in the data collection computer, the first count, the frequency, the period, and the first time; (5) recording the lottery information input by the user and an event count in the portable memory device, the event count being output by the counter when the user enters the lottery information; (6) reading, from the portable memory device by the data collection computer at

a second time, a second count output by the counter at the second time; (7) storing, in the data collection computer, the second count and the second time; and (8) determining the time the user entered the lottery information based on the event count, one of the period and the frequency, and one of (i) the first time and the first count, and (ii) the second time and the second count. Claim 1 has been amended to remove all references to variables and equations, and to clarify all limitations recited therein. The changes to Claim 1 are supported by the originally filed specification and do not add new matter.[2]

Regarding the rejection of Claim 36 under 35 U.S.C. § 103(a), the '546 patent is directed to a system allowing remote participants to predict football plays while watching a football game. As shown in Figure 3, the '546 patent discloses that after a participant enters a play, the entering time is recorded in step 34. However, Applicants respectfully submit that the '546 patent fails to disclose (1) storing a first count read from a portable memory device in a data collection computer, (2) storing a second count read from the portable memory device in the data collection computer; and (3) determining the time a user entered lottery information into the portable memory device *based on an event count, one of a period and a frequency, and one of (i) the first time and the first count, and (ii) the second time and the second count,* as recited in amended Claim 36. Rather, applicants note that the counters disclosed by the '546 patent are started at *random* times and merely function as a verification code for a hand-held device. Accordingly, Applicants respectfully traverse the rejection of Claim 36 (and dependent Claims 37-51) as obvious over the '546 patent.

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[2] See, e.g., pages 16-18 of the specification. Without limiting the claims, Applicants note that the first count recited in the claims generally corresponds to the variable $N1$ recited in the specification, and the second count generally corresponds to the variable $N2$ recited in the specification. Moreover, Applicants note that the frequency and period recited in Claim 36 finds support in any of the frequencies $f1$, $f2$, and $f3$ recited in the specification and any of the periods $t1$, $t2$, and $t3$ recited in the specification, respectively. Further, without limiting the claims, the "first time" recited in the claims, generally corresponds to the variable $T1$ (without the index i) recited in the specification. Similarly, the "second time" recited in the claims generally corresponds to the variable $T2$, again without the index i, recited in the specification. Finally, without limiting the claims, Applicants note that the "event count" recited in the claims generally corresponds to the count $N(i)$ recited in the specification.

Amended Claim 52 is directed to a system for conducting a lottery, comprising, *inter alia*: (1) an information source linked to participants of the lottery over a communications channel; (2) a portable memory device included an input-output unit, a timer configured to output timing data and count data, a memory, and a control unit, the portable memory device configured to record lottery information input by a participant of the lottery; (3) a data collection computer having an input-output interface and configured to record count data and timing data output by the timer of the portable memory device and to determine a time of recording of the lottery information input by the participant based on the count data, the time data, and one of a frequency and a period of the timer; and (4) a terminal comprising time characteristic measuring means for measuring the frequency and the period of the timer. The changes to Claim 52 are supported by the originally filed specification and do not add new matter.[3]

Applicants respectfully submit that the rejection of Claim 52 (and dependent Claims 53 and 54) is rendered moot by the present amendment to Claim 52. In particular, Applicants submit that the '546 patent fails to disclose a data collection computer configured to determine a time of recording of the lottery information by the participant *based on the count data, the timing data, and one of the frequency and period of the timer*, as recited in amended Claim 52.

Thus, it is respectfully submitted that independent Claim 36 (and dependent Claims 37-51) and independent Claim 52 (and dependent Claim 53 and 54) patentably define over the '546 patent.

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[3] See, e.g., Figure 1 for an example of the time ("temporal") characteristic measuring means and the terminal recited in Claim 52.
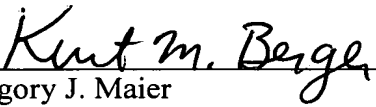
Consequently, in view of the present amendment and in light of the above discussion,

the outstanding grounds for rejection are believed to have been overcome. The application as

amended herewith is believed to be in condition for formal allowance. An early and

favorable action to that effect is respectfully requested.

Respectfully submitted,

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